

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature First Regular Session - 2011

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 205, As Amended in the Senate

BY EDUCATION COMMITTEE

AN ACT

RELATING TO PUBLIC LIBRARIES; AMENDING CHAPTER 27, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2741, IDAHO CODE, TO PROVIDE PROVISIONS RELATING TO PUBLIC LIBRARIES AND INTERNET USE POLICY, TO PROVIDE THAT PUBLIC LIBRARIES SHALL HAVE IN PLACE A POLICY OF INTERNET SAFETY, TO PROVIDE FOR DISABLING A TECHNOLOGY PROTECTION MEASURE, TO PROVIDE PROVISIONS RELATING TO ADOPTION OF A POLICY, TO PROVIDE FOR NOTICE, TO PROVIDE PROVISIONS RELATING TO WHAT THE POLICY MAY REQUIRE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR A LIMITATION OF THIS SECTION; AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 27, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-2741, Idaho Code, and to read as follows:

33-2741. PUBLIC LIBRARY -- INTERNET USE POLICY REQUIRED. (1) Public libraries receiving public moneys and governed by the provisions of chapters 26 and 27, title 33, Idaho Code, that offer use of the internet or an online service to the public:

(a) (i) Shall have in place a policy of internet safety for minors including the operation of a technology protection measure with respect to any publicly accessible computers with internet access and that protects against access through such computers to visual depictions that are obscene or child pornography or harmful to minors; and

(ii) Shall enforce the operation of such technology protection measure during any use of a computer by a minor.

(b) (i) Shall have in place a policy of internet safety, which may include the operation of a technology protection measure with respect to any publicly accessible computers with internet access and that protects against access through such computers to visual depictions that are obscene or child pornography; and

(ii) May enforce the operation of such technology protection measure during any use of a computer.

(2) The provisions of this section shall not prohibit a public library from limiting internet access or otherwise protecting against materials other than the materials specified in this section.

(3) An administrator, supervisor or other authorized representative of a public library may disable a technology protection measure described in subsection (1) at the request of a library patron to enable access for lawful purposes.

(4) Each public library's policy shall be developed under the direction of the library's board of trustees, adopted in an open meeting and shall have

1 an effective date. The board of trustees shall review the policy at least
 2 once every three (3) years. The policy shall reflect the most recent date of
 3 review.

4 (5) Notice of the availability of the policy shall be posted in a con-
 5 spicuous place within the library for all patrons to observe. The board of
 6 trustees may issue any other public notice it considers appropriate to in-
 7 form the community about the policy.

8 (6) The policy may:

9 (a) State that it restricts access to internet or online sites that con-
 10 tain material described in subsection (1) of this section and how the
 11 policy meets the requirements provided for in this section;

12 (b) Inform patrons that administrative procedures and guidelines for
 13 library staff to follow in enforcing the policy have been adopted and
 14 are available for review at the library; and

15 (c) Inform patrons that procedures for use by patrons and staff to han-
 16 dle complaints about the policy, its enforcement or about observed pa-
 17 tron behavior have been adopted and are available for review at the li-
 18 brary.

19 (7) For purposes of this section, the following terms shall have the
 20 following meanings:

21 (a) "Child pornography" means any visual depiction, including any pho-
 22 tograph, film, video, picture, or computer or computer-generated im-
 23 age or picture, whether made or produced by electronic, mechanical, or
 24 other means, of sexually explicit conduct, where:

25 (i) The production of such visual depiction involves the use of a
 26 minor engaging in sexually explicit conduct;

27 (ii) Such visual depiction is a digital image, computer image, or
 28 computer-generated image that is, or is indistinguishable from,
 29 that of a minor engaging in sexually explicit conduct; or

30 (iii) Such visual depiction has been created, adapted, or modified
 31 to appear that an identifiable minor is engaging in sexually ex-
 32 plicit conduct.

33 (b) "Harmful to minors" means any picture, image, graphic image file or
 34 other visual depiction that:

35 (i) Taken as a whole and with respect to minors, appeals to a
 36 prurient interest in nudity, sex or excretion;

37 (ii) Depicts, describes or represents, in a patently offensive
 38 way with respect to what is suitable for minors, an actual or sim-
 39 ulated sexual act or sexual contact, actual or simulated normal or
 40 perverted sexual acts, or a lewd exhibition of the genitals; and

41 (iii) Taken as a whole, lacks serious literary, artistic, politi-
 42 cal or scientific value as to minors.

43 (c) "Minor" means anyone who has not attained the age of eighteen (18)
 44 years.

45 (d) "Obscene" means a depiction that:

46 (i) The average person, applying contemporary community stan-
 47 dards, would find to appeal to the prurient interest;

48 (ii) Depicts or describes sexual conduct in a patently offensive
 49 way; and

1 (iii) Lacks serious literary, artistic, political or scientific
2 value.

3 (e) "Public moneys" means any and all moneys belonging to or collected
4 by the state or any political subdivision thereof including, but not
5 necessarily limited to, any city, county, town or district therein.

6 (8) The provisions of this section shall have no effect on the provi-
7 sions of section 33-132, Idaho Code.

8 SECTION 2. This act shall be in full force and effect on and after Octo-
9 ber 1, 2012.